

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

QUINCETTA Y. CARGILL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:20-cv-920-AMM-GMB
	)	
UNITED STATES DEPARTMENT	)	
OF JUSTICE,	)	
	)	
Defendant.	)	

**MEMORANDUM OPINION**

The Magistrate Judge entered a report on August 23, 2022 recommending the dismissal of this action with prejudice under 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief can be granted and as frivolous under § 1915(e)(2)(B)(i). Doc. 25. On September 12, 2022, the plaintiff filed a motion to dismiss her claims on the grounds that she filed a case against the United States in the United States District Court for the Western District of Washington “where the claims are exact in nature” and she intends to add the United States Department of Justice as a defendant. Doc. 26.


The Magistrate Judge explained in the report that the Department of Justice is not a proper defendant and thus the plaintiff’s claims are due to be dismissed for failure to state a claim upon which relief may be granted. Doc. 25 at 6–7. The Magistrate Judge also explained that even if the plaintiff could sue the Department

of Justice, her claims still fail individually. *Id.* at 7. The plaintiff's Federal Tort Claims Act claims cannot be brought against a federal agency, her Thirteenth Amendment claim fails as a matter of law, and her Equal Protection claim does not fall within the three narrow categories under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). Doc. 25 at 7–8. Even if the plaintiff's Equal Protection claim was cognizable under *Bivens*, it would still be barred by *Heck v. Humphrey*, 512 U.S. 477, 487 (1994). Accordingly, the plaintiff's motion to dismiss the claims in this action, Doc. 26, presumably without prejudice, so that she may assert the exact claims against the Department of Justice in a pending action is **DENIED**.

After careful consideration of the record in this case and the Magistrate Judge's report, the court **ADOPTS** the report and **ACCEPTS** the recommendation. Consistent with that recommendation and 28 U.S.C. § 1915A(b), this action is due to be dismissed with prejudice for failing to state a claim upon which relief can be granted and as frivolous.<sup>1</sup>

A final judgment will be entered.

**DONE** and **ORDERED** this 6th day of October, 2022.

  
 ANNA M. MANASCO  
 UNITED STATES DISTRICT JUDGE

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<sup>1</sup>As noted by the Magistrate Judge, this dismissal with prejudice does not prevent the plaintiff from attempting to state her claims against the proper defendant. *See* Doc. 25 at 9, n.7.